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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,192

07/07/2006

Fredrick Michael Vernon

12123-0007

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03/18/2009

CLARK & BRODY

1090 VERMONT AVENUE, NW

SUITE 250

WASHINGTON, DC 20005

EXAMINER

FERGUSON, CHANTEL L

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

03/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,192	Applicant(s) VERNON, FREDRICK MICHAEL	
	Examiner CHANTEL FERGUSON- GRAHAM	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/11/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Summary

1. This is the initial Office action based on the 10/564192 application filed July 7, 2006.
2. Claims 1-14 are pending and have been fully considered.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 11 9(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 6 and 12 states “in the range 1.4 to 2.0 x 10⁶” It is unclear of the value applicant is claiming. Applicant is required to further bring clarification and/or correction to claims.

7. Examiner has taken the position that the value is 1.4 x 10⁶ to 2.0 x 10⁶.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-14 is rejected under 35 U.S.C. 102(b) as being anticipated by SIPPEL ET AL. (US PATENT 3795556), and as evidence by RAM ET AL. (INTRINSIC VISCOSITY OF POLYMER SOLUTIONS) . Hereby referred to as SIPPEL and RAM.

Regarding claims 1-5 and 7-11, SIPPEL teaches the composition and method of a gelled (thickening) incendiary that comprises liquid hydrocarbon (liquid hydrocarbons) fuels such as JP-4 and JP-5 and mixtures thereof (paraffin and kerosene); and gelling agents such as polyisobutylene (medium to high molecular weight polymer) (branched chain alkene). The JP-5 is kerosene which has a flash point of 140°F (flashpoint greater or equal to 62°C) (col. 2 lines 5-27; and EXAMPLES I-X; see also claim 1).

Regarding claims 6 and 12, SIPPEL does not explicitly teach that the polymer has a molecular weight in the range of 1.4 to 2.0×10^6 ; however it is inherently taught by RAM. RAM teaches that the polyisobutylene has a range of molecular weights is 1.1×10^6 to 6.6×10^6 (pg 60, paragraph EXPERIMENTAL).

Regarding claims 13-14, intended use has been continuously held not to be germane to determining the patentability of a composition claim (see MPEP 2111.02).

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHANTEL FERGUSON-GRAHAM whose telephone number is (571)270-5563. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Chantel Ferguson-Graham
Chemical Examiner
Art Unit 1797

/Cephia D. Toomer/

Primary Examiner, Art Unit 1797